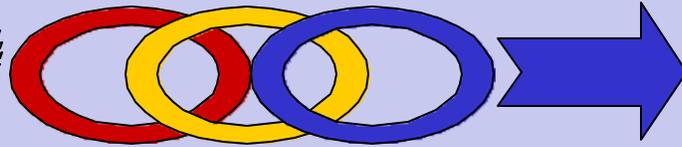


Court Connection



U.S. Bankruptcy Court
Western District of N.C.

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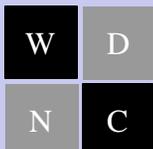
...and more!

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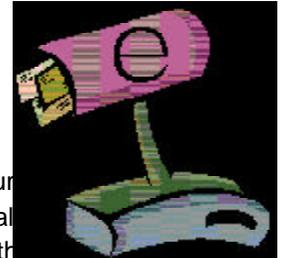


The Chambers "Skinny"

by George R. Hodges & J. Craig Whitley, Bankruptcy Judges

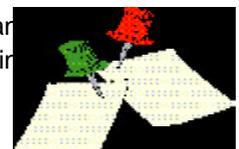
Five Ways To Be A Better Lawyer Right Now

Sometimes the "view from the bench" is not all that pretty. Fortunately, in our Bar, problems with attorneys occur only rarely and attorney misconduct is almost nonexistent. But there are some things we see recurring that are in the nature of "aggravations" that, if corrected, would make the offender a better lawyer (and more effective). Here is a list of "Five Ways To Be A Better Lawyer" immediately:



1. Treat the Clerk's staff and the Court's staff like you would treat the judge. Our staff is trained to be helpful to attorneys and to help solve any procedural problems that occur. You should know, however, that they are also trained to let the judges know immediately when an attorney or paralegal mistreats them in any way.
2. State facts and law accurately. It is surprising how often attorneys make misstatements — often that are plainly belied by documents in the case or the very case they cite. For example, an attorney who represents that a prior order provided for certain relief is quickly embarrassed when their opponent produces the order and demonstrates that there is no such provision. The same misrepresentation is not advocacy. It leaves us to wonder whether the attorney is careless, delusional or just dishonest — but in any case the conclusion is inescapable — that we cannot rely on what that attorney says.
3. Treat other attorneys with the same courtesy outside of court that you would show in the courtroom. Character is what you do when no one is looking. Treating each other like you would if the judge was watching is one measure of propriety. Plus, you should be aware that we usually hear about any mistreatment eventually anyhow.
4. Do not use the term "Honorable" in signature lines for orders. We believe it appears presumptuous. Plus, see paragraph two above.
5. Please do not present proposed orders with nothing on the signature page but the judge's signature line. We have had problems in the past with the misuse of our signatures — and a blank signature page creates lots of opportunities for mischief.

The increased workload caused by record filings has strained everyone and can result in a loss of civility to each other. Please try to bear these items in mind and we will too!



NOTABLES:

Chapter 12

Effective July 1, 2003, Chapter 12 of the Bankruptcy Code expired. A bill for further extension is pending before the Senate. The Court will pass along new information as it is received.

One Hundred Million

The judiciary's Bankruptcy Noticing Center (BNC) announced recently that for the first time it distributed more than one hundred million notices in a single year!!!

CM/ECF

The Court periodically updates CM/ECF information on the website. Click on CM/ECF Information/Training/Recent Training Manual Updates to download the most recent copy of the attorney training manual and new updates.

Attorney and staff training classes are still available! Click on CM/ECF Information/Training/Registration Instructions and Training Calendar to register for a Charlotte class. To arrange a class in Asheville, call Robin Cherkas at 828-771-7308.

Annual Asheville Bar Breakfast

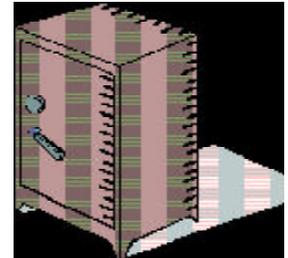
The annual Asheville Bar Breakfast will be **Tuesday, September 16 at 8:00!** The judge and court staff will present information about the upcoming privacy changes. Attorneys are encouraged to participate and to bring staff. Contact Sara Davis (828-254-7168) to reserve your seat!

Record Case Filings:

GUESS WHAT - 10,000 or Bust !!! During the past year, (May 2002 through April 2003), our Court hit the 10,000 new case filings mark for the first time in the history of the court. Just think, only 10 years ago (1993) we had approximately 3,500 new filings that year. Almost a three hundred percent increase between then and now! Wouldn't it be great if the stock market kept up the same growth rate?

Courthouse Security:

The U.S. Marshal has dedicated funding to enhance the entrance security areas (Court Security Officer stations) in both the Charlotte and Asheville courthouses. They are planning to reconfigure these areas to allow for secondary screening and the installation of lock boxes for attorneys to place cell phones or other items not allowed in the courthouse.



New Rules and Forms Amendments Related to the Judicial Conference's Privacy Policy

The Judicial Conference, at its September 2002 session, approved proposed amendments to the Bankruptcy Rules and Official Bankruptcy Forms that will implement the policy on privacy and public access to electronic court files which the Judicial Conference had approved a year earlier, in September 2001. At this time, the proposed amendments to the Bankruptcy Rules have been forwarded to the Supreme Court.

The Judicial Conference policy on privacy and public access, which was developed in response to the growing volume of court case files that are available over the Internet, states that personal identifiers such as Social Security numbers of individuals should be redacted to the last four digits of the number by the person filing a document with the court. Clerks will not be expected to redact or otherwise correct a filed document. Accordingly, Bankruptcy Rule 1005 will be amended to require only the last four digits of an individual debtor's Social Security number to be included in "the title of the case," which appears on the petition and all other documents filed in a case. Official Forms 1 and 5, the voluntary and involuntary petition forms will be amended to specify that only the last four digits of a Social Security number should be provided. Debtors will continue to be required to provide any other taxpayer identification numbers in full, because these numbers, such as an Employer Identification Number (EIN) for depositing withholding and other payroll taxes, do not implicate individual privacy.



During the public comment period on the proposed amendments, creditors noted their strong reliance on the full, nine-digit Social Security number they currently receive and their grave concern about the potential for misidentifying debtors if only the last four digits were available. In response to the comments by creditors, the Advisory Committee on Bankruptcy Rules modified its proposals so that creditors in a case, along with the Trustee and US Trustee or Bankruptcy Administrator, will receive the full Social Security number on their copy of the 341 notice. The copy of the 341 notice that goes into the case file, however, will show only the last four digits of the number.

The mechanics of how CM/ECF will segregate the nine-digit number from case data is being worked out by the CM/ECF programming staff at the Administrative Office. Court procedures also may have to change, especially with respect to the BNC and the processing of 341 Notices and the VCIS system. The individual Courts will be making the required procedural changes and will insure that the public is notified. Attorney firms should be in contact with their individual Bankruptcy Software providers to inquire about possible updates to their software.

ECF Tips and Tricks

by Robin Cherkas and Robin Felts, Court Trainers

Duplicate Filings - when filing a new case electronically, if there is a question as to whether the filing 'went through,' do not resubmit the filing! This has the potential of causing two case numbers to be assigned to the same debtor. If a question arises, simply query CM/ECF for the debtor name and/or social security number. Resubmit the filing only if a query does not locate a new filing for the debtor. Tip: Once a new case number is obtained, add the number into the bankruptcy petition software used in office. This will be a handy reminder that the case has already been filed and provide ready access to the court case number.

Local Form 2 Tender Order Form - proposed orders submitted to the court must be accompanied by the Local Form 2 Tender Order Form. A note at the bottom of this form calls for the form to be reproduced on green stock when proposed orders are submitted over-the-counter (OTC). This is no longer a requirement. When proposed orders are submitted OTC, submit the proposed order along with the Local Form 2 Tender Order Form on white paper. NOTE: Additional time will be saved if proposed orders are submitted electronically! See the Court's Website (CM/ECF Information-Training-Recent Training Manual Updates-Proposed Orders) for instructions on submitting proposed orders electronically.

Conversions - the court no longer requires a 'paper matrix' to be filed upon conversion from Chapter 13 to Chapter 7. The court will upload the most recent mailing matrix from the Chapter 13 office. Creditors listed on the 1019 Report filed upon conversion will be added to the mailing matrix and served with a copy of the 341 notice.

Chapter 13 Dismissal Calendars to be E-Mailed to Attorneys

The Charlotte, Wilkesboro and Shelby Division Chapter 13 Trustees are currently e-mailing dismissal calendars to parties requesting the e-mail. The calendar, in a pdf format, is e-mailed approximately one week prior to the hearing date. The e-mail replaces the broadcast fax previously sent. If you would like to receive the dismissal calendar via e-mail and have not previously notified the Trustee's office, please call and provide them with your e-mail address(es). Please note: It is the recipient's responsibility to advise the Trustee of e-mail address changes; the Trustee will not be responsible for returned e-mail. An e-mail address list for 341(a) meeting calendars is also being created. If you are interested in receiving the 341(a) calendar by e-mail, please notify the Trustee's office.



Changes in Certificates of Discharge

Increasingly, we see attorneys trying to use the certificate of discharge to determine legal issues such as dischargeability of debts; the validity and extent of liens; and to cancel judgments on state court judgment rolls. This is improper. The certificate is an administrative notice and was never intended to determine substantive legal rights.

The certificate question came up recently in the case of *In re Greene, Case No. 02-51929 (May 28, 2003)*. There, Judge Whitley denied the debtors' request for such a certificate, because the certificate submitted attempted to hold the judgment debt dischargeable and to determine that it did not attach to a particular property of the debtors. This violates FRBP 7001 which requires an adversary proceeding to make such determinations. Effectively, Greene limits the use of certificates of discharge to providing record notice of a bankruptcy filing and discharge in other public registries.

The other judges in the District concur with the *Greene* decision. The Court has reworked its certificate of discharge form. The new form only represents that: (1) the Debtor filed Chapter 7 in this district on a particular date; and (2) he or she received a discharge on another date.

As such, the old attorneys' affidavits have been rendered superfluous and will no longer be required.

Greetings and Salutations

The Clerk's Office would like to take this opportunity to welcome new employees to the court. We would also like to extend our best wishes to members of the court that are moving on to new positions both within the court and outside the court. Thank you for friendships made and your individual contributions to the Court.

Chambers Staff

Farewell and best wishes to **Andi Ricks**, Law Clerk to Judge Hodges. Andi's last day with the court will be August 29, 2003. On October 1, 2003 Andi will become associated with the Law Offices of Gary Swindell in the practice of commercial real estate law in Charlotte.

The Court would like to welcome **Glenn Thompson** as Judge Whitley's new Law Clerk. Glenn graduated from Wake Forest University in 1998 with a B.A. in Political Science. He received his J.D. from Washington and Lee School of Law in May, 2003.

Laura Beyer will become Judge Hodges' permanent law clerk effective September 1, 2003.



Bankruptcy Administrator Office

The Clerk's office joins the BA's office as they welcome two new employees.

Dyanne Satterfield, Office Assistant. Dyanne is originally from North Carolina. She has worked in Spartanburg, South Carolina and is now returning to her home state. Dyanne has past experience as a Legal Secretary, Administrative Communications Assistant and Executive Assistant.

Sarah Scholz, Bankruptcy Analyst. Sarah worked as a Bankruptcy paralegal with the Templeton and Raynor law firm. She will be replacing Susan Allen.

Congratulations to **Susan Allen**. Susan will be retiring on August 22, 2003. She has worked with the courts since August 1991. Susan is presently engaged and tentatively looking at a September wedding date.

Alexandria "Alex" Kenny joins the BA's office as their Staff Attorney. She will be working part-time temporary until the new Bankruptcy Administrator selection is made. Alex worked as a Bankruptcy Attorney at Shapiro and Ingle from 1998 - 2002.

Charlotte Clerk's Office

Jennifer Bryant joined the Charlotte Clerk's office in February of this year as a new case administrator. Her past employment was with the Gourley, Griffin & Gourley law firm in Statesville as a Bankruptcy paralegal. Prior to that Jennifer worked with the law firm of Bond & Botes here in Charlotte.

Asheville Clerk's Office

The Asheville Office welcomes a new case administrator, **Tammy Hightower**, a North Carolina native! Most recently, Tammy worked in Rock Hill, SC as an Accounts Representative. Prior to that, she was employed for 9 years in Asheville as a Judicial Specialist for the Buncombe County Child Support Enforcement.

